MOTION FILED
APR 17 1992

NO. 91-1440

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1991

SCHNABEL FOUNDATION COMPANY,

Petitioner,

v.

HARBOR INSURANCE COMPANY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF PETITIONER TO SEEK THE VIEWS OF THE UNITED STATES

Your Petitioner, by and through undersigned Counsel of Record, pursuant to Rule 21 of the Rules of this Court, hereby moves this Court to seek the views of the United States in this case on the following grounds:

1. The brief *Amicus Curiae* of the District of Columbia Chapter of the Federal Bar Association in Support of Petition for Writ of Certiorari states on page 2 that:

> The issues presented by the Petition for Certiorari will be of importance to the Department of Justice and U.S. Attorneys throughout the country as they take an

> increased role in jury cases as required by the Civil Rights Act of 1991. The confusion engendered by the split in the circuits should be resolved by this Court as the Government embarks upon this new aspect of Title VII jury practice.

Notwithstanding the controversy in the Federal Courts which has evolved since November 25, 1991, over the retroactivity of sections 102(b)[1] and 102(c)[2] of the "Civil Rights Act of 1991," the fact remains that subsequent to November 25, 1991, the United States in all eleven circuits will be subjected to jury trials on a regular basis. In light of the fact that the 1991 amendments to Rule 50 of the Federal Rules of Civil Procedure (effective on December 1, 1991), in the opinion of your petitioner, have been prospectively and wrongly interpreted by the court of appeals in this case, the views of the United States should be sought to assist this Court in its determination of whether to grant certiorari.

Accordingly, it is respectively requested that the views of the United States be sought in this case.

Respectfully submitted,

Alexander W. Whitaker
Suite 600
1815 H Street, N.W.
Washington, DC 20006-3604
(202) 785-9240
Counsel of Record for Petitioner

---

[1] Permits claims against the United States for compensatory and punitive damages.

[2] Permits any party to demand a *trial by jury* when the plaintiff seeks compensatory or punitive damages under Section 102(b).

CERTIFICATE OF SERVICE

Your petitioner, by and through undersigned Counsel of Record, pursuant to Rule 29 of the Rules of this Court, hereby certifies that three copies of the above-captioned Motion of Petitioner to Seek the Views of the United States were mailed **on Friday, April 17, 1992,** by depositing in a mailbox of the United States Postal Service, with first-class postage prepaid, properly addressed to:

Robert E. Heggestad, Esquire
CASEY, SCOTT, CANFIELD & HEGGESTAD, P.C.
805 15th Street, N.W., Suite 600
Washington, DC 20005
Counsel of Record for Respondent

Arthur D. McKey, Esquire
KAPLAN RUSSIN & VECCHI
1215 17th Street, N.W.
Washington, DC 20036
Counsel of Record for Amicus Curiae
District of Columbia Chapter
Federal Bar Association

The Honorable Kenneth W. Starr
Solicitor General of the United States
United States Department of Justice
Room No. 5143
Constitution Avenue, N.W.
Center Door (between 9th & 10th Streets, N.W.)
Washington, DC 20530

Alexander W. Whitaker
Suite 600
1815 H Street, N.W.
Washington, DC 20006-3604
(202) 785-9240
Counsel of Record for Petitioner